

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION**

Wallace Tool & Die, Inc.,)	C/A No: 8:10-1106-RBH
)	
Plaintiff,)	
)	
v.)	
)	
Carolina Care Plan, Inc.)	DEFENDANT'S NOTICE OF REMOVAL
)	
Defendants.)	
)	

TO: THE HONORABLE UNITED STATES DISTRICT JUDGE AND
LAURA COLLINS, PLAINTIFF AND PLAINTIFF'S ATTORNEY OF RECORD

Defendant Carolina Care Plan, Inc. ("Carolina Care Plan") ("Defendant"), through counsel and without waiving or prejudicing any defences, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, files this Notice of Removal of the above-captioned action to the United States District Court for the District of South Carolina, Anderson Division, showing as follows:

1. An action was commenced in Court of Common Pleas for the County of Pickens, State of South Carolina by the above-named Plaintiff, which case is styled as Wallace Tool & Die v Carolina Care Plan, Inc., Case No. 2010-CP-39-583. A copy of all process and pleadings served on Defendant is attached hereto as Attachment A.

2. Defendants statutory agent for service of process accepted service of the attached process, and Defendant timely file this Notice of Removal within thirty (30) days of that service upon same pursuant to 28 U.S.C. § 1446(b). A copy of the letter from the Department of Insurance accepting service is attached hereto as Attachment B. Further, while the Complaint names Carolina Care Plan, Inc. as defendant in this action, defendant is represented by the below-signed counsel and consents to removal of this action as evidenced by counsel's signature.

3. This action is being removed to this Court because this case is a suit wholly of a civil nature over which this Court has original federal question jurisdiction under 28 U.S.C. § 1331. The Complaint alleges causes of action against Defendant for the payment of benefits under a Plan governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001, *et seq.* While Defendant believes that the Plaintiff’s state law claims are preempted by ERISA, jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331. (See Attachment A, Complaint).

4. Defendant files this Notice of Removal without waiving any defenses to the claims asserted against it or conceding that the Plaintiff has stated claims upon which relief can be granted.

5. The state court from which this action is removed, and in which this action was commenced, is within this Court’s district and division.

6. By copy of this Notice of Removal, Defendant shall promptly provide written notice to all adverse parties advising them of the filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

7. A copy of this Notice will be promptly filed with the Clerk of the Court of the Court of Common Pleas for the County of Pickens, State of South Carolina in accordance with 28 U.S.C. § 1446(d). A copy of the State Court Notice of Filing of Notice of Removal is attached hereto, without exhibits, as Attachment C.

8. Defendant’s responses required by Local Civil Rule 26.01 DSC and Defendant’s disclosure required by Fed. R. Civ. P. 7.1, shall be filed contemporaneous with the filing of this Notice of Removal.

WHEREFORE, Defendant gives notice that this action has been removed to this Court.

Respectfully submitted,

By: s/Noah M. Hicks II
Noah M. Hicks II, Fed. ID# 9743
Law Offices of Noah M. Hicks II, LLC
P.O. Box 7996
Columbia, SC 29202
(803) 708-4842 (telephone)
(803) 708-4844 (facsimile)
CHicks@NMHLawFirm.com (e-mail)

Attorney for Defendant Carolina Care Plan,
Inc.

Columbia, South Carolina
This 3rd day of May 2010.